

AMENDED IN SENATE JULY 15, 2009

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 21, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 744

Introduced by Assembly Member Torrico

February 26, 2009

An act to amend Section 30913 of, and to add Sections ~~30914.6~~ 27566, 30914.6, and 30914.7 to, the Streets and Highways Code, *and to amend Section 21655.6 of the Vehicle Code*, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 744, as amended, Torrico. Transportation: toll lanes: Express Lane Network.

Existing law specifies the respective powers and duties of the Bay Area Toll Authority and the Department of Transportation relative to the operation of the state-owned Bay Area toll bridges and the allocation of toll bridge revenues. Existing law provides for the department to designate certain lanes for the exclusive use of buses and high-occupancy vehicles (HOVs). Existing law provides for various agencies, including the Sunol Smart Carpool Lane Joint Powers Authority, the Alameda County Congestion Management Agency, and the Santa Clara Valley Transportation Authority, to implement high-occupancy toll (HOT) lanes on state highways, which are

high-occupancy vehicle lanes that may also be used by vehicles without the requisite number of occupants upon payment of a toll.

This bill would authorize the Bay Area Toll Authority to ~~acquire~~ *develop*, administer, ~~and~~ operate, *and maintain* a Bay Area Express Lane Network on state highways within the 9 Bay Area counties pursuant to a development plan recommended by the Bay Area Express Lane Network Project Oversight Committee, which the authority would be required to establish. The bill would authorize the authority to establish the fee structure for use of the express lanes and would require a public hearing in that regard. The bill would authorize the authority to determine the types of vehicles that may use the lanes. *The bill would prohibit the authority from converting existing nontolled general purpose lanes to express lanes.* The bill would provide for agreements between the authority and the Department of Transportation and the Department of the California Highway Patrol. The bill would require revenues from the express lanes to be deposited in the Bay Area Express Lane Network Account, which the authority would be required to create. The bill would authorize the authority to issue revenue bonds for the express lane program. The bill would specify the use of revenues in the account, including the net revenues remaining after expenses and obligations, including revenue bond obligations, for the express lane program are satisfied. The bill would provide for certain payments by the authority to the Department of Transportation and the Department of the California Highway Patrol relative to their responsibilities with regard to the express lane program, and would continuously appropriate the amount of those payments to those agencies for those purposes. The bill would require the Sunol Smart Carpool Lane Joint Powers Authority, the Alameda County Congestion Management Agency, and the Santa Clara Valley Transportation Authority to enter into agreements with the Bay Area Toll Authority by January 1, 2011, to provide for the transfer of their rights and obligations relative to HOT lane projects to the Bay Area Toll Authority. The bill would enact other related provisions.

Existing law specifies certain major projects that may be undertaken with toll revenues from the Bay Area state-owned toll bridges.

This bill would provide that the Bay Area Express Lane Network is eligible for funding from bridge toll revenues under certain conditions.

Existing law provides for the Department of Transportation, in cooperation with various agencies, to develop and adopt functional

specifications and standards for an automatic vehicle identification system for toll collection purposes on toll facilities.

This bill would require the Bay Area Toll Authority, in its role as the administrator of the automatic vehicle identification system, among other things, to provide a cash-based opportunity for customers to obtain an account for paying tolls that does not require the customer to provide a name or address.

Existing law authorizes the Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, to authorize the exclusive or preferential use of highway lanes for high-occupancy vehicles. Existing law requires the department to obtain the approval of the applicable transportation planning agency or county transportation commission prior to implementing this provision.

This bill would authorize the Metropolitan Transportation Commission, in cooperation with the department, to increase the vehicle occupancy qualification requirements for any vehicle using an express lane located within the geographic jurisdiction of the commission by one additional passenger above the occupancy level required on January 1, 2010.

Because this bill would mandate various actions to be undertaken by the Bay Area Toll Authority, it would thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) It is the intent of the Legislature to authorize the Bay Area
- 4 Toll Authority to acquire, administer, and operate a Bay Area
- 5 Express Lane Network (network) with the following objectives:
- 6 (1) More effectively manage the region's freeways in order to
- 7 provide higher passenger throughput and to reduce delays for all

1 travelers in the corridor, especially those traveling by carpool,
2 vanpool, or bus within each travel corridor.

3 (2) Provide an efficient, effective, consistent, and seamless
4 system for network customers.

5 (3) Provide benefits to travelers within each corridor
6 commensurate with the revenues collected in that corridor,
7 including expanded travel options and funding to support
8 nonhighway options that enhance effectiveness and throughput.

9 (4) Expedite the implementation of the network using a rapid
10 delivery approach that, to the greatest extent possible, recognizing
11 safety, operational, and environmental constraints, relies upon the
12 existing highway right-of-way and minimizes the environmental
13 impact.

14 (5) Use network revenue to finance project development and
15 construction of the network and other corridor improvements,
16 operate and maintain the network, and ~~use~~ *prioritize the use of* net
17 corridor revenue to provide transit capital and operations funding
18 to improve transit service in the corridor ~~and provide other mobility~~
19 ~~improvements to the network corridors.~~

20 (b) It is the intent of the Legislature that network policies be
21 developed by the Bay Area Toll Authority in a collaborative
22 manner that includes the Department of Transportation, the
23 Department of the California Highway Patrol, and bay area
24 congestion management agencies.

25 (c) It is the intent of the Legislature that the authority utilize a
26 corridor-based structure that recognizes commute sheds and
27 geographic communities of interest as the most effective and
28 user-responsive models for the network facilities implementation.

29 (d) It is the intent of the Legislature that the authority reinvest
30 net corridor revenues generated in the corridor to provide benefits
31 to all travelers in the corridor.

32 (e) It is the intent of the Legislature that corridor investment
33 plans guide the use of net corridor revenues from the express lane
34 network to capital and operating programs serving the corridor
35 commensurate with the net corridor revenue generated by each
36 corridor.

37 (f) It is the intent of the Legislature that the network provide
38 customers a consistent and efficient system that is easy to use, that
39 is ~~safe and simple~~, and includes the following elements, but with

1 variances and exceptions as may be necessary to commence
2 network operations in a timely and cost-effective manner:

- 3 (1) Consistent geometric design.
- 4 (2) Consistent signage.
- 5 (3) Common technology.
- 6 (4) Common marketing, logo, and terminology.

7 *SEC. 2. Section 27566 is added to the Streets and Highways*
8 *Code, to read:*

9 *27566. (a) In its role as administrator of the automatic vehicle*
10 *identification system described in Section 27565, the Bay Area*
11 *Toll Authority shall provide vehicle owners who seek to obtain an*
12 *account the option of opening and maintaining an account with*
13 *United States currency or check. That option shall also allow a*
14 *customer to obtain an account without providing his or her name*
15 *or address.*

16 *(b) The Bay Area Toll Authority shall inform the public about*
17 *the option to obtain a cash-based account for the automatic vehicle*
18 *identification system on its Internet Web site and in promotional*
19 *materials.*

20 *(c) The Bay Area Toll Authority may provide a person the option*
21 *of making a payment with United States currency to replenish his*
22 *or her vehicle identification system account at the toll plaza*
23 *administration building associated with each of the state-owned*
24 *toll bridges located within the geographic jurisdiction of the*
25 *Metropolitan Transportation Commission.*

26 *(d) The Bay Area Toll Authority shall make a good faith effort*
27 *to encourage commercial retailers that sell transponders for the*
28 *automatic vehicle identification system to enable a person to*
29 *replenish his or her account at the retail location with a variety*
30 *of payment methods, including, but not limited to, United States*
31 *currency.*

32 ~~SEC. 2.~~

33 *SEC. 3. Section 30913 of the Streets and Highways Code is*
34 *amended to read:*

35 *30913. (a) In addition to any other authorized expenditure of*
36 *toll bridge revenues, the following major projects may be funded*
37 *from toll revenues:*

- 38 (1) Benicia-Martinez Bridge: Widening of the existing bridge.
- 39 (2) Benicia-Martinez Bridge: Construction of an additional span
- 40 parallel to the existing bridge.

(3) Carquinez Bridge: Replacement of the existing western span.

(4) Richmond-San Rafael Bridge: Major rehabilitation of the bridge, and development of a new easterly approach between the toll plaza and Route 80, near Pinole, known as the Richmond Parkway.

(5) The authority's Bay Area Express Lane Network authorized by Section 30914.7, if and to the extent that funding for the network is not available from other sources listed in subdivision (a) of Section 30914.7 ~~on at interest rates and on other financing terms~~ and conditions acceptable to the authority, and provided that the authority ~~projects adopts a finding that its current financial projections indicate~~ that its funding of the network will not necessitate an increase in the bridge toll rates by the authority or preclude the authority from timely performance of its contractual and statutory obligations ~~and provided further that funds so advanced shall be treated as loans to be repaid pursuant to paragraph (3) of subdivision (a) of Section 30914.7.~~

(b) The toll increase approved in 1988, which authorized a uniform toll of one dollar (\$1) for two-axle vehicles on the bridges and corresponding increases for multi-axle vehicles, resulted in the following toll increases for two-axle vehicles on the bridges:

Bridge	1988 Increase (Two-axle vehicles)
Antioch Bridge	\$0.50
Benicia-Martinez Bridge	.60
Carquinez Bridge	.60
Dumbarton Bridge	.25
Richmond-San Rafael Bridge	.00
San Francisco-Oakland Bay Bridge	.25
San Mateo-Hayward Bridge	.25

Portions of the 1988 toll increase were dedicated to transit purposes, and these amounts shall be calculated as up to 2 percent of the revenue generated each year by the collection on all bridges of the base toll at the level established by the 1988 toll increase. The Metropolitan Transportation Commission shall allocate two-thirds of these amounts for transportation projects, other than those specified in Sections 30912 and 30913 and in subdivision (a) of Section 30914, which are designed to reduce vehicular traffic

1 congestion and improve bridge operations on any bridge, including,
2 but not limited to, bicycle facilities and for the planning,
3 construction, operation, and acquisition of rapid water transit
4 systems. The commission shall allocate the remaining one-third
5 solely for the planning, construction, operation, and acquisition of
6 rapid water transit systems. The plans for the projects may also be
7 funded by these moneys. Funds made available for rapid water
8 transit systems pursuant to this subdivision shall be allocated to
9 the San Francisco Bay Area Water Emergency Transportation
10 Authority beginning on the date specified in the adopted transition
11 plan developed by the authority pursuant to subdivision (b) of
12 Section 66540.32 of the Government Code.

13 (c) The department shall not include, in the plans for the new
14 Benicia-Martinez Bridge, toll plazas, highways, or other facilities
15 leading to or from the Benicia-Martinez Bridge, any construction
16 that would result in the net loss of any wetland acreage.

17 (d) With respect to the Benicia-Martinez and Carquinez Bridges,
18 the department shall consider the potential for rail transit as part
19 of the plans for the new structures specified in paragraphs (2) and
20 (3) of subdivision (a).

21 (e) At the time the first of the new bridges specified in
22 paragraphs (2) and (3) of subdivision (a) is opened to the public,
23 there shall be a lane for the exclusive use of pedestrians and
24 bicycles available on at least, but not limited to, the original span
25 at Benicia or Carquinez, or the additional or replacement spans
26 planned for those bridges. The design of these bridges shall not
27 preclude the subsequent addition of a lane for the exclusive use of
28 pedestrians and bicycles.

29 (f) Subject to the rights of the holders of any outstanding toll
30 bridge revenue bonds issued by the authority and the requirements
31 of any constituent instruments defining the rights of holders of
32 related obligations of the authority entered into pursuant to Section
33 5922 of the Government Code, the authority may pledge toll
34 revenues and other income derived from bridges referred to in
35 Section 30953 to secure bonds issued by it pursuant to Section
36 30914.7 if and to the extent the authority determines that funding
37 for the network authorized by Section 30914.7 is not available ~~on~~
38 *at interest rates and on other financing* terms acceptable to the
39 authority without such a pledge, and provided that the authority
40 *projects adopts a finding that its current financial projections*

1 *indicate* that those obligations will not necessitate an increase in
2 the bridge toll rates by the authority or preclude the authority from
3 timely performance of its contractual and statutory obligations.
4 The authority may increase the amount of the tolls collected on
5 the toll bridges described in Section 30910 pursuant to Section
6 30918 thereafter if that action is necessary to meet those
7 obligations.

8 ~~SEC. 3.~~

9 *SEC. 4.* Section 30914.6 is added to the Streets and Highways
10 Code, to read:

11 30914.6. (a) The authority shall establish a Bay Area Express
12 Lane Network Project Oversight Committee (committee), which
13 shall consist of a staff representative of the authority (who shall
14 serve as chair of the committee), a representative of the department
15 named by its director, a representative of the Department of the
16 California Highway Patrol named by its ~~director~~ *commissioner*,
17 and a staff representative of each of the congestion management
18 agencies or countywide transportation planning agencies within
19 the geographic jurisdiction of the commission as defined in Section
20 66502 of the Government Code that choose to participate. *For the*
21 *purposes of this chapter, all references to congestion management*
22 *agencies shall include countywide transportation planning agencies*
23 *that operate within the jurisdiction of the commission, as defined*
24 *in Section 66502 of the Government Code.*

25 (b) The committee shall recommend to the authority an express
26 lane development plan for the network authorized in Section
27 30914.7 and policies for the network. The plan shall be updated
28 at least every four years and shall be initiated with the authority
29 providing an estimate of funds available for the development,
30 construction, *maintenance*, and operation of the network. The first
31 development plan shall consist of the following two elements:

32 (1) A phasing plan for development of the network, including
33 a definition of the geographic boundaries of each of the express
34 lane corridors.

35 (2) An operational plan that shall recommend consistent
36 standards for the network, including, but not limited to, the
37 following:

38 (A) Geometric design.

39 (B) Signage.

40 (C) Safe and simple operations.

- 1 (D) Technology.
- 2 (E) Shared marketing, logo, and terminology.
- 3 (F) Pricing policies and goals.
- 4 (G) Carpool occupancy requirements.
- 5 (H) Hours of operation.
- 6 (I) Maintenance.
- 7 (J) Enforcement.
- 8 (K) Tort liability.
- 9 (L) *Performance standards, consistent with paragraph (1) of*
- 10 *subdivision (e) of Section 30914.7.*

11 Subsequent development plans shall include updates on the
12 phasing plan and operational plan as needed.

13 While development of a consistent regional network shall be the
14 goal, the development plan may allow for variations in design or
15 other policies, as needed. In developing the phasing plan, the
16 committee shall first prioritize those corridors that (1) can be
17 converted to express lanes *that have sufficient capacity* from
18 existing high-occupancy vehicle lanes or ~~that~~ (2) demonstrate the
19 ability to generate sufficient fee revenue to cover their financing,
20 operating, and maintenance costs. Elements of the plan *and any*
21 *subsequent revisions or updates to the plan* that are under the
22 authority of the department or the Department of the California
23 Highway Patrol shall be approved by the department or the
24 Department of the California Highway Patrol, respectively, prior
25 to being recommended to the authority. The authority shall consider
26 and accept or reject any express lane development plan or revised
27 plan recommended to it. If the authority rejects a plan, it shall
28 return the plan to the committee with its comments, and the
29 committee shall revise the plan and recommend it to the authority.
30 The process described in this subdivision, including and through
31 plan acceptance by the authority, shall not be delayed or halted on
32 account of any failure to receive or accept corridor investment
33 plans pursuant to subdivision (e) or (f).

34 (c) The committee shall establish corridor working groups as
35 subcommittees of the committee. The number of groups shall
36 correspond to the number of express lane travel corridors within
37 the geographic jurisdiction of the commission as specified in the
38 express lane development plan adopted by the authority and as
39 adjusted, from time to time, by the authority to reflect travel

1 patterns after consultation with the affected group or groups and
2 the committee.

3 (d) Each group shall consist of a staff representative of the
4 authority, a representative of the department named by its director,
5 a representative of the Department of the California Highway
6 Patrol named by its—~~director~~ *commissioner*, and a staff
7 representative of a congestion management agency represented
8 on the committee whose jurisdiction includes a portion or all of
9 the group's express lane corridor or whose residents comprise a
10 significant share of the potential travelers in the corridor. Each
11 group shall establish its voting arrangements to reflect the commute
12 shed patterns served by the corridor and the level of county or city
13 and county investment in the infrastructure forming part of the
14 corridor. Each group shall select its chair from among the staff
15 representatives of congestion management agencies participating
16 in the group.

17 (e) ~~Each~~ *In coordination with the department, each* group shall
18 be responsible for the preparation of a project study report or
19 equivalent project initiation document and a corridor investment
20 plan. *The project study report shall assess the feasibility and*
21 *desirability of express lanes in the corridor.* The authority shall
22 provide the resources necessary to prepare the elements of the
23 project study report or equivalent project initiation document and
24 corridor investment plan that relate to the network. The group shall
25 submit a complete corridor investment plan to the committee. The
26 corridor investment plan shall consist of:

27 (1) Proposals and recommendations, including, but not limited
28 to, the following elements:

29 (A) Phased development of the segment of the network within
30 the corridor of the group.

31 (B) Carpool occupancy and network fee policies.

32 (C) Local funding for the development of part or all of the
33 segment of the network within the corridor of the group, which
34 may include the use of bond or other financing backed by local
35 sources other than network fees.

36 (D) Proposed reimbursement of local agencies for prior
37 expenditures on elements of the high-occupancy vehicle lane or
38 express lane network.

39 (E) Proposals as to which state, regional, or local agency or
40 other entity should perform work described in the corridor

1 investment plan, on a project-by-project basis, including, without
2 limitation, planning, environmental review, and design and
3 construction.

4 (F) An examination and detailed analysis of equity
5 considerations, including, but not limited to, the impact of the
6 proposed segment of the network on low-income travelers in the
7 corridor, transit riders, carpoolers, and the distribution of benefits
8 by geographic area and a proposal for how to minimize any
9 inequities that are identified.

10 (G) *A proposal for improving public transit services in the*
11 *corridor, including an identification of potential fund sources for*
12 *those improvements.*

13 ~~(G) The corridor investment plan shall also contain an~~

14 (H) An examination of safety and operations, including, but not
15 limited to, express lane ingress and egress.

16 (2) Proposals as to projects and programs to be funded with net
17 corridor revenue as defined in subdivision (h) of Section 30914.7,
18 ~~consistent with paragraph (5) of subdivision (a), giving priority~~
19 *giving highest priority* to projects and programs that will ~~reduce~~
20 ~~vehicular emissions and~~ provide cost-effective public transit
21 options in the corridor. *Eligible projects shall provide benefits in*
22 *the corridor, such as improving safety, reducing traffic congestion,*
23 *reducing vehicular emissions, improving public transit options,*
24 *or making carpooling and vanpooling more convenient.* Corridor
25 working groups shall consult with public transit agencies operating
26 in the corridor in the development of the corridor investment plan.
27 Corridor working groups may also prepare corridor system
28 management plans which include, but are not limited to, express
29 lane operations.

30 (f) The committee shall review each corridor investment plan
31 for consistency with the express lane development plan and other
32 corridor investment plans and, after any resulting revisions by the
33 group, the committee shall submit each corridor investment plan
34 that it has approved to each of the congestion management agencies
35 represented on the group whose jurisdiction includes a portion or
36 all of the group's corridor for review and approval. Each congestion
37 management agency shall have 60 days within which to approve
38 a complete corridor investment plan submitted to it by the
39 committee. If the corridor investment plan is approved by all of
40 the congestion management agencies to which it has been

submitted, the committee shall recommend the plan to the authority. If a corridor investment plan is not approved by one or more congestion management agencies to which it has been submitted, each congestion management agency that has not adopted the plan shall advise the group and the committee of its concerns in writing. The group and the committee shall use their best efforts to negotiate changes in the plan that will result in approval by each congestion management agency to which the plan is required to be submitted, and the revised plan shall be submitted to the congestion management agencies to which the initial plan was submitted. Each congestion management agency shall have 60 days within which to approve the revised plan submitted to it. At the end of the 60-day period, the revised plan shall be recommended by the committee to the authority and a representative of each of the congestion management agencies that rejected the revised plan shall be afforded an opportunity to advise the authority of the congestion management agency's reasons for not approving the revised plan. The authority shall review the plan for consistency with the express lane development plan, financing covenants, the regional transportation plan, or any other applicable legal requirements and shall consider and accept or reject any plan or revised plan recommended to it. If the authority rejects a plan, it shall return the plan to the committee with its comments, and the committee and the group that prepared the plan shall revise the plan and repeat the approval process, and the committee shall recommend the resulting revised plan to the authority.

(g) The committee, and each group, is a local agency as that term is defined in the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). Members of the committee and members of each group shall serve without compensation. The authority shall develop a conflict-of-interest policy that shall be applicable to each member of the committee and each member of a group.

~~SEC. 4.~~

SEC. 5. Section 30914.7 is added to the Streets and Highways Code, to read:

30914.7. (a) Notwithstanding Sections 149 and 30800, and Section 21655.5 of the Vehicle Code, the authority may ~~acquire, administer, and operate~~ *develop, administer, operate, and maintain*

1 an express lane network on state highways within the geographic
2 jurisdiction of the commission. *The goal of the express lane*
3 *network shall be to provide higher person throughput and to reduce*
4 *delays for all travelers in the corridor, especially those traveling*
5 *by carpool, vanpool, or bus within each travel corridor.*
6 Expenditures for the network may be funded from the following:

7 (1) Network revenues.

8 (2) Revenue bonds issued pursuant to this section.

9 (3) Contributions and loans from federal, state, or local agencies,
10 including congestion management agencies and the authority.

11 (b) (1) The authority pursuant to subdivision (c), may direct
12 and authorize the entry and use of the network or segments of the
13 network for a fee. ~~The Subject to Section 5205.5 of the Vehicle~~
14 ~~Code, as that section read on January 1, 2010, the fee structure~~
15 ~~shall be established from time to time by the authority and may~~
16 ~~include free or reduced rate passage for high-occupancy vehicles,~~
17 ~~public transportation vehicles, low-emission vehicles or~~
18 ~~energy-efficient vehicles, or motorcycles in a manner compliant~~
19 ~~with applicable federal law, notwithstanding any other law.~~ The

20 (2) *In designing and updating its fee structure and access*
21 *policies, the authority shall prioritize person throughput and travel*
22 *time reliability for buses and multioccupant vehicle users of the*
23 *network. The fee structure shall include a maximum toll determined*
24 *by the authority. The authority shall also develop methods to*
25 *temporarily deny access to the network to toll-paying vehicles, to*
26 *meet the performance standards required by paragraph (1) of*
27 *subdivision (e) if the authority determines those methods to be*
28 *necessary. The authority shall develop a program for monitoring,*
29 *evaluating, and reporting on the network that provides for*
30 *continuous monitoring of the traffic conditions on the facility.*

31 (3) The authority shall make available for public review and
32 comment its proposed fee schedule and any changes to the fee
33 schedule at least 30 days prior to holding a public hearing
34 concerning the proposed fee schedule or changes to the fee
35 schedule and considering the adoption of the fee schedule or
36 changes to the fee schedule. The public hearing may be scheduled
37 during a public meeting of the authority.

38 (c) ~~Notwithstanding any other law, vehicles~~ Vehicles that are
39 certified or authorized by the authority for entry into, and use of,
40 the network or segments of the network shall not be in violation

1 of *Section 21655.5 of the Vehicle Code* ~~or any other law~~ because
2 of that entry and use.

3 (d) The authority shall *develop and* implement in a collaborative
4 manner with the department, the Department of the California
5 Highway Patrol, and ~~bay area~~ *Bay Area* congestion management
6 agencies the express lane development plan accepted by it pursuant
7 to subdivision (b) of Section 30914.6, except any elements or
8 features of the plan that the authority determines are (1)
9 impracticable or infeasible ~~or that~~, (2) *do not provide a significant*
10 *net benefit to the travelers residing along a corridor*, (3) will
11 unduly delay commencement of operation of the network, or ~~that~~
12 (4) may materially and adversely affect the financial condition of
13 the network or the authority or its credit rating. *If the authority*
14 *makes any of the above determinations, a gap in the network may*
15 *exist.*

16 (e) (1) The authority shall carry out the network program in
17 cooperation with the department and the Department of the
18 California Highway Patrol pursuant to a cooperative agreement
19 that addresses all matters related to design, construction,
20 maintenance, and operation of state highway system facilities in
21 connection with the network program, including the conversion
22 of existing high-occupancy vehicle lanes to express lanes forming
23 part of the network. With the assistance of the department, the
24 authority shall establish ~~appropriate traffic flow guidelines~~
25 *performance standards consistent with federal requirements related*
26 *to minimum speed for those facilities* for the purpose of ensuring
27 optimal use of the network without adversely affecting other traffic
28 on the state highway system. ~~Implementation of the network~~
29 ~~program shall ensure that Level of Service C, as measured by the~~
30 ~~most recent issue of the Highway Capacity Manual, as adopted by~~
31 ~~the Transportation Research Board, is maintained at all times in~~
32 ~~the network, except that the cooperative agreement may permit~~
33 ~~Level of Service D under terms and conditions specified in the~~
34 ~~cooperative agreement.~~

35 (2) Notwithstanding Section 13340 of the Government Code,
36 there is hereby continually appropriated to the department for
37 expenditure pursuant to the cooperative agreement all amounts
38 paid to the department by the authority for the network program,
39 including, without limitation, amounts paid as advances or to

1 reimburse the department for payments to contractors working on
2 the program.

3 (f) (1) Agreements between the authority, the department, and
4 the Department of the California Highway Patrol shall identify the
5 respective obligations and liabilities of those entities and assign
6 them responsibilities relating to the network program. The
7 agreements entered into pursuant to this section shall be consistent
8 with agreements between the department and the United States
9 Department of Transportation relating to programs of this nature.
10 The agreements shall include clear and concise procedures for
11 enforcement by the Department of the California Highway Patrol
12 of laws prohibiting the unauthorized use of the network. The
13 agreements shall provide for reimbursement of state agencies, from
14 revenues generated by the network program, or other funding
15 sources that are not otherwise available to state agencies for
16 transportation-related projects, for costs incurred in connection
17 with the implementation or operation of the network program.

18 (2) Notwithstanding Section 13340 of the Government Code,
19 there is hereby continually appropriated to the Department of the
20 California Highway Patrol for expenditure pursuant to agreements
21 authorized by paragraph (1) all amounts paid to the Department
22 of the California Highway Patrol for the network program,
23 including, without limitation, amounts paid as advances.

24 (g) All revenue generated from the network shall be deposited
25 in the authority's Bay Area Express Lane Network Account, which
26 the authority shall create. Funds in the account shall be available
27 to the authority for the following purposes:

28 (1) To pay or provide for debt service on revenue bonds issued
29 pursuant to this section, to pay any related obligations of the
30 authority entered into pursuant to Section 5922 of the Government
31 Code, and to comply with the covenants and other requirements
32 of the constituent instruments defining the rights of holders of
33 those revenue bonds and related obligations.

34 (2) To repay loans pursuant to paragraph (3) of subdivision (a),
35 including financing costs.

36 (3) To pay or provide for expenses related to the acquisition,
37 operation including collection and enforcement, maintenance,
38 construction, and related project development activities, and
39 administration of the network.

(h) Revenue remaining after payment or provision for payment of the obligations and other expenses referred to in paragraphs (1) to (3), inclusive, of subdivision (g) shall constitute “net corridor revenue.” Up to 5 percent of net corridor revenue may be retained by the authority as a reserve to pay, and applied to pay, obligations and other expenses referred to in paragraphs (1) to (3), inclusive, of subdivision (g). All remaining net corridor revenue shall be allocated by the authority to those corridors provided for in subdivision (c) of Section 30914.6 in proportion to the net corridor revenue generated by each corridor. The net corridor revenue so allocated to a corridor shall be expended by the authority to implement the projects and programs to be funded in accordance with the corridor investment plan for that corridor accepted by the authority pursuant to subdivision (f) of Section 30914.6. The authority may disburse net corridor revenue to eligible recipients, including congestion management agencies, on a reasonable and timely basis, including, without limitation, advances, pay-as-you-go, or reimbursement methods.

(i) The authority shall control and maintain the Bay Area Express Lane Network Account and those subaccounts as it deems necessary and appropriate to document revenues and expenditures in accordance with generally accepted accounting principles.

(j) The authority and the Sunol Smart Carpool Lane Joint Powers Authority shall enter into an agreement within one year after the effective date of this act providing for the transfer to the authority of all of the rights and obligations of the Sunol Smart Carpool Lane Joint Powers Authority under Section 149.5. The authority shall succeed to all of the rights and obligations of the Sunol Smart Carpool Lane Joint Powers Authority under Section 149.5 on the earlier of the date specified in the agreement, or one year after the date when the project authorized by Section 149.5 commences operation.

(k) The authority and the Alameda County Congestion Management Agency shall enter into an agreement within one year after the effective date of this act providing for the transfer to the authority of all of the rights and obligations of the Alameda County Congestion Management Agency under Section 149.5. The authority shall succeed to all of the rights and obligations of the Alameda County Congestion Management Agency under Section 149.5 on the earlier of the date specified in the agreement, or one

1 year after the date when the project authorized by Section 149.5
2 commences operation.

3 (l) The authority and the Santa Clara Valley Transportation
4 Authority shall enter into an agreement within one year after the
5 effective date of this act providing for the transfer to the authority
6 of all of the rights and obligations of the Santa Clara Valley
7 Transportation Authority under Section 149.6. The authority shall
8 succeed to all of the rights and obligations of the Santa Clara Valley
9 Transportation Authority under Section 149.6 on the earlier of the
10 date specified in the agreement, or one year after the Santa Clara
11 Valley Transportation Authority commences operation of the first
12 of the projects authorized by Section 149.6.

13 (m) (1) The authority may issue bonds and notes (collectively
14 called bonds) payable from and secured by a pledge of the authority
15 of all or any part of the revenue of the network to finance capital
16 expenditures for the network, including project development,
17 construction, and construction-related expenditures, and sell those
18 bonds at public or private sale in the form and on the terms and
19 conditions as the governing board of the authority shall approve.
20 The authority may pledge all or any part of the revenue of the
21 network to secure those bonds and any related obligations of the
22 authority entered into pursuant to Section 5922 of the Government
23 Code. The authority may issue bonds to refund or purchase or
24 otherwise acquire any bonds on terms and conditions as the
25 governing board of the authority shall approve.

26 (2) Subject to the rights of the holders of any bonds issued
27 pursuant to paragraph (1) and the rights of the holders of any
28 constituent instruments defining the rights of holders of related
29 obligations of the authority entered into pursuant to Section 5922
30 of the Government Code, the authority may pledge revenue of the
31 network program to secure bonds issued by it pursuant to Section
32 30961 if and to the extent it determines that bonds issued by it
33 pursuant to Section 30961 require such a pledge in order to be sold
34 by the authority on terms acceptable to the authority. The authority
35 may increase the amount of the fees provided for in subdivision
36 (b) if necessary to meet those obligations.

37 (3) Any bond issued pursuant to this section shall contain on
38 its face a statement to the following effect:
39

1 “Neither the full faith and credit nor the taxing power of the
2 State of California or the Bay Area Toll Authority is pledged to
3 the payment of principal of, or the interest on, this bond.”
4

5 (4) Bonds issued pursuant to this section are legal investments
6 for all trust funds, the funds of all insurance companies, banks,
7 trust companies, executors, administrators, trustees, and other
8 fiduciaries. The bonds are securities that may legally be deposited
9 with, and received by, any state or municipal officer, agency, or
10 political subdivision of the state for any purpose for which the
11 deposit of bonds or obligations of the state is now, or may hereafter
12 be, authorized by law, including deposits to secure public funds.

13 (5) Interest earned on any bonds issued pursuant to this section
14 shall at all times be free from state personal income tax and
15 corporate income tax.

16 (6) The state hereby pledges to and agrees with the holders of
17 bonds issued pursuant to this section and the holders of related
18 obligations of the authority entered into pursuant to Section 5922
19 of the Government Code:

20 (A) The state will not authorize fee-based publicly or privately
21 owned express lanes or high occupancy vehicle lanes within the
22 geographic jurisdiction of the commission as defined in Section
23 66502 of the Government Code other than the express lanes
24 provided for in this section.

25 (B) The state will not limit, alter, or restrict the rights hereby
26 vested in the authority to fulfill each pledge of revenues and any
27 other terms of any agreement made with or for the benefit of those
28 holders of bonds and related obligations or in any way impair the
29 rights or remedies of the holders of those bonds and related
30 obligations.

31 (n) ~~The~~ *Subject to the approval of the department, the* authority
32 is authorized, but not required, to be the lead agency for the
33 preparation of any required environmental studies or other
34 documents for the network provided for in this section,
35 notwithstanding any other provision of law.

36 (o) *On or before October 1 of each year, beginning after the*
37 *first of the express lanes authorized by this section is operational*
38 *and under the control of the authority, the authority shall submit*
39 *to the transportation committee of each house of the Legislature,*
40 *a report containing all of the following elements:*

1 (1) *A description of the network and each corridor.*

2 (2) *A description of the projects that are planned, under*
3 *development, and in operation, including the lead agencies for*
4 *each project and the date the facility is or is expected to be placed*
5 *in service.*

6 (3) *The costs of each project and an explanation of the project's*
7 *financing plan.*

8 (4) *The amount of toll revenues collected in each corridor and*
9 *the network as a whole.*

10 (5) *Expenditures made from toll revenues for each corridor and*
11 *for the network as a whole.*

12 (6) *The amount of net revenue distributed to each corridor and*
13 *a description of how those funds will be or are used for each*
14 *corridor.*

15 (p) *The authority shall not convert existing nontolled general*
16 *purpose lanes to express lanes.*

17 SEC. 6. *Section 21655.6 of the Vehicle Code is amended to*
18 *read:*

19 21655.6. (a) Whenever the Department of Transportation
20 authorizes or permits exclusive or preferential use of highway
21 lanes for high-occupancy vehicles on any highway located within
22 the territory of a transportation planning agency, as defined in
23 Section 99214 of the Public Utilities Code, or a county
24 transportation commission, the department shall obtain the approval
25 of the transportation planning agency or county transportation
26 commission prior to establishing the exclusive or preferential use
27 of the highway lanes.

28 (b) If the department authorizes or permits additional exclusive
29 or preferential use of highway lanes for high-occupancy vehicles
30 on that portion of State Highway Route 101 located within the
31 boundaries of the City of Los Angeles, the department shall obtain
32 the approval of the Los Angeles County Transportation
33 Commission by at least a two-thirds majority vote of the entire
34 membership eligible to vote prior to establishing the additional
35 exclusion or preferential use of the highway lanes.

36 (c) If the department restricts or requires the restriction of the
37 use of any lane on any federal-aid highway in the unincorporated
38 areas of Alameda County to high-occupancy vehicles, the
39 Metropolitan Transportation Commission shall review the use
40 patterns of those lanes and shall determine if congestion relief is

1 being efficiently achieved by the creation of the high-occupancy
2 vehicle lanes. The commission shall report its findings and
3 recommendations in its HOV Master Plan Update for the San
4 Francisco Bay area no later than two years after those
5 high-occupancy vehicle lanes become operational.

6 *(d) Notwithstanding any other provision of law, the Metropolitan*
7 *Transportation Commission, in cooperation with the department,*
8 *may increase the vehicle occupancy qualification requirements*
9 *for any vehicles using an express lane within the geographic*
10 *jurisdiction of the commission, by an additional one passenger*
11 *above the occupancy level required on January 1, 2010.*

12 ~~SEC. 5.~~

13 SEC. 7. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district are the result of a program for which legislative authority
17 was requested by that local agency or school district, within the
18 meaning of Section 17556 of the Government Code and Section
19 6 of Article XIII B of the California Constitution.